

# United States District Court Southern District of Texas

Case Number: 05CV1847

## ATTACHMENT

Description:

☐ State Court Record      ☒ State Court Record Continued

☐ Administrative Record

☒ Document continued - Part 6 of \_\_\_\_\_

☐ Exhibit to: \_\_\_\_\_  
number(s) / letter(s) \_\_\_\_\_

Other: \_\_\_\_\_  
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RECORDED: VOLUME 1167 PAGE 586 COMBINED MINUTES OF THE  
DISTRICT COURTS OF HARRIS COUNTY, TEXAS.  
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for vdr/cleale

147988  
WJ

CAUSE NO. 9403201

13/RK/992/ML

THE STATE OF TEXAS	\$	IN THE 178TH DISTRICT COURT
VS.	\$	OF
GERALD CORNELIUS ELDRIDGE	\$	HARRIS COUNTY, T E X A S

MOTION IN LIMINE

TO THE HONORABLE JUDGE OF SAID COURT:

Now Comes the State of Texas by and through her Assistant District Attorney and moves in limine for an order instructing the Attorneys for the Defendant, their representatives and witnesses, to refrain from making any direct or indirect reference whatsoever, at trial to the following:

I.

That if the Defendant receives a life sentence he will be eligible for parole after serving 35 calendar years; and/or

II.

That if the Defendant receives a life sentence he will spend the rest of his life in prison and never be released on parole.

WHEREFORE PREMISES CONSIDERED, the State of Texas prays that the Court grant this Motion In Limine.

Respectfully submitted

**FILED**  
KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 2:30 PM  
Harris County, Texas

By: [Signature]  
Deputy

[Signature]  
Assistant District Attorney  
Harris County, Texas

RECORDER'S MEMORANDUM:  
This instrument is of poor quality and not satisfactory for photographic recordation; and/or alterations were present at the time of filming.

000132

Y1203 P0625

for Judge /C re 147298746

13/RK/agl  
Vme

CAUSE NO. 9403201

THE STATE OF TEXAS                    §            IN THE 178TH DISTRICT COURT  
VS.    §            OF  
GERALD CORNELIUS ELDRIDGE           §            HARRIS COUNTY, TEXAS

MOTION IN LIMINE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, The State of Texas, by and through her Assistant District Attorney, Don Smyth, and moves and requests that the Court instruct the Defendant and the Defendant's Attorney not to mention,

Any defense objection to the State's challenge of the juror under Batson in the presence of the juror. Any reference to any suggestion or allegation that the State has exercised a strike for racially motivated reasons in the presence of the juror

until a hearing has been held outside the presence of the jury to determine the admissibility of such.

Respectfully submitted,

*Elsa Alcala*

Assistant District Attorney  
Harris County, Texas

**FILED**

KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 2:30  
Harris County, Texas

By: [Signature]  
Deputy

RECORDER'S MEMORANDUM:  
This instrument is of poor quality and not satisfactory for photographic recordation; and/or alterations were present at the time of filming.

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17904 8071A

11/2/99 awl

CAUSE NO. 9403201

STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
GERALD ELDRIDGE	§	178TH JUDICIAL DISTRICT

**MOTION TO PROPOUND SPECIFIC QUESTIONS TO  
VENIREMAN REGARDING THE BURDEN OF PROOF  
ON SPECIAL ISSUE - MITIGATION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, G. ELDRIDGE Defendant, by and through his attorneys of record and makes this his Motion to Propound Specific Questions to Venireman Regarding the Burden of Proof on Special Issue - Mitigation, and as grounds therefore would show the Court as follows:

**I.**

Defendant contends that the State has the burden of proof on the special issue dealing with mitigation. That is, the Defendant contends that the answer to the issue must be "yes" unless and until the State proves, beyond a reasonable doubt, that there are no mitigating circumstances which would justify a life sentence rather than a death sentence. The Defendant requests permission to voir dire each and every venireman to

**MOTION TO PROPOUND SPECIFIC QUESTIONS  
TO VENIREMAN REGARDING THE BURDEN OF  
PROOF ON SPECIAL ISSUE - MITIGATION, Page 1**

and any follow-up question on this subject which may be necessary based on the venireman answers.

Respectfully submitted,

**FILED**

KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 10:00 a.m.  
Harris County, Texas

By: [Signature]  
Deputy

[Signature: Danise M. Crawford]

Danise M. Crawford  
TBA# 05020150  
1112 Southmore Boulevard  
Houston, Texas 77004  
(713) 523-4050

[Signature: Wayne T. Hill]

Wayne T. Hill  
TBA # 09656300  
4615 Southwest Freeway, Suite 600  
Houston, Texas 77027-7106  
(713) 623-8312

ATTORNEYS FOR DEFENDANT  
GERALD ELDRIDGE

**MOTION TO PROPOUND SPECIFIC QUESTIONS  
TO VENIREMAN REGARDING THE BURDEN OF  
PROOF ON SPECIAL ISSUE - MITIGATION, Page 3**

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CAUSE NO. 9403201

13/RK/988  
VAK

STATE OF TEXAS                   §           IN THE DISTRICT COURT OF  
VS.                               §           HARRIS COUNTY, TEXAS  
GERALD ELDRIDGE               §           178TH JUDICIAL DISTRICT

**ORDER ON DEFENDANT'S MOTION TO PROPOUND  
SPECIFIC QUESTIONS TO VENIREMAN REGARDING  
THE BURDEN OF PROOF ON SPECIAL ISSUE - MITIGATION**

On this 7 day of MARCH, 1994, came on to be  
heard the Defendant's Motion to Propound Specific Questions to Venireman  
Regarding the Burden of Proof on Special Issue - Mitigation, and after due  
consideration, the Court is of the opinion, and it is hereby ORDERED, that  
said Motion is:

\_\_\_\_\_  
✓                   GRANTED  
\_\_\_\_\_  
DENIED, to which ruling Defendant timely  
excepts.

SIGNED this the 7 day of MARCH, 1994.

  
JUDGE PRESIDING

RECORDER'S MEMORANDUM:  
This instrument is of poor quality  
and not satisfactory for photographic  
recording; and/or alterations were  
present at the time of filming.

**ORDER ON DEFENDANT'S MOTION TO PROPOUND  
SPECIFIC QUESTIONS TO VENIREMAN REGARDING  
THE BURDEN OF PROOF ON SPECIAL ISSUE -MITIGATION, Page 1**

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V1204 P0112

offense, the defendant's character and background, and the personal moral culpability of the defendant, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed.

(f) The court shall charge the jury that in answering the issue submitted under Subsection (e) of this article, the jury:

- (1) shall answer the issue "yes" or "no";
- (2) may not answer the issue "no" unless it agrees unanimously and may not answer the issue "yes" unless 10 or more jurors agree.

## II.

This statute is unconstitutional because it fails to require that mitigation be considered. A juror is required to consider all mitigation. After the juror has considered the mitigation, it is then up to the juror to determine what effect to give the mitigation. Failure to mandate consideration of mitigating evidence makes this statute unconstitutional in violation of the Eighth Amendment.

Capital murder statutes that have survived constitutional scrutiny all require that the jury be told that it must consider all mitigating evidence. E.g., Johnson v. Texas, 113 S.Ct. 2658 (1993); Boyde v. California, 494 U.S. 370 (1990); Blystone v. Pennsylvania, 494 U.S. 299 (1990).

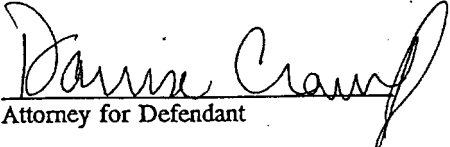
**MOTION TO HOLD UNCONSTITUTIONAL V.A.A.C.P.  
ARTICLE 37.071 SEC. 2(e) AND (f) - FAILURE TO  
REQUIRE MITIGATION BE CONSIDERED, Page 2**



CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing MOTION has been hand-delivered to the State of Texas by serving an Assistant District Attorney.

SIGNED THIS 7 day of March, 1994.

  
Attorney for Defendant

W. Negley

CAUSE NO. 9403201

STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
GERALD ELDRIDGE	§	178TH JUDICIAL DISTRICT

**DEFENDANT'S SECOND MOTION TO SET ASIDE THE INDICTMENT  
(UNCONSTITUTIONALITY OF STATUTE)**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES, the Defendant, G. ELDRIDGE by and through his attorneys of record, and moves to set aside the indictment, and for good cause shows the following:

**I.**

The Texas capital punishment scheme, which limits the jury to consideration of the special issues, does not permit the jury to consider and give effect to all the mitigating circumstances which exist concerning Defendant, in violation of the Eighth and Fourteenth Amendments to the United States Constitution, and Article I, §§10, 13 and 19 of the Texas Constitution. See, Penry v. Lynaugh, 109 S.Ct. 2934 (1989); Eddings v. Oklahoma, 455 U.S. 104 (1982); and Lockett v. Ohio, 438 U.S. 586 (1978).

jury is unable to agree on a special verdict. And the article provides that nobody inform jurors that a failure to agree on a special issue will result in a life sentence. These provisions considered together violate the Eighth and Fourteenth Amendments of the United States Constitution and Article I §§10, 13 and 19 of the Texas Constitution for the following reasons:

1. Informing a juror that he shall answer the questions "yes" or "no" might reasonably cause this juror to shift his position to satisfy the requirements of the 12-0 rule.

2. The statutory prohibition against informing jurors of the impact of his individual vote relieves him of psychological responsibility for the jury's collective decision to impose death as punishment.

3. The statutory prohibition fails to provide the jury with accurate information concerning the sentencing process in Texas.

4. The statutory 10 vote prerequisite to a "no" response establishes an artificial numerical threshold which bears no relationship to conditions required by Texas law for assessment of a life sentence. See r. Clary, Voting for Death: Lingering Doubts About the Constitutionality of Texas' Capital Sentencing Procedure, 19 St.M.L.J. 353, 374-75 (1987).

## VI.

Under the Texas law, a capital jury may not be informed that Defendant would have to serve at least 35 years in prison before becoming

IX.

The Texas death penalty scheme is unconstitutional in violation of the Eighth and Fourteenth Amendments of the United States Constitution and Article I §§10, 14 and 19 of the Texas Constitution, because it does not define the various terms and phrases used in the three special issues in ways that would permit the jury to give full mitigating significance to those terms.

X.

The procedure by which the death penalty is imposed in Texas denies the Defendant protection from cruel and unusual punishment. A close analysis of the statute reveals that the system for imposition of the death penalty permits arbitrary and unchecked discrimination amounting to a denial of equal protection under the law. Pursuant to the provisions of the Texas statutes, two persons could commit capital offenses under similar circumstances, yet one could receive the death penalty and the other life imprisonment. The special issue submission pursuant to Article 37.071 provides no real standard for the guidance of juries in death penalty cases. Turning to the issues themselves, one can readily see that they are couched in nebulous terms that defy a realistic answer.

There is no properly defined policy for assisting jurors with the life and death question. The only guidance which the Court gives the jury

XIII.

The statutes upon which said prosecution is based are violative of the Eighth Amendment to the United States Constitution and Article I §§13 and 19 of the Texas Constitution in that the death penalty is not a deterrent to future homicides.

XIV.

Article 37.071 is violative of the Fifth, Eighth and Fourteenth Amendments of the United States Constitution and Article I §§10, 13 and 19 of the Texas Constitution in that questions number one and three have already been answered by the jury in convicting the Defendant, and that whether there is a "probability" the Defendant would commit violent criminal acts in the future is a "vague" and indefinite inquiry because there is always some mathematical probability that any person might commit a violent act in the future and the statute provides no guidelines or other statutory limitations upon the factors to be considered by the jury in making that determination.

XV.

Death by lethal injection is cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments of the United States Constitution and Article I §§10, 13 and 19 of the Texas Constitution.

of the United States Constitution and Article I §§10, 13 and 19 of the Texas Constitution.

XX.

The Texas death penalty scheme does not properly narrow the class of persons eligible for the ultimate punishment in violation of the Eighth and Fourteenth Amendments of the United States Constitution and Article I §§10, 13 and 19 of the Texas Constitution.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully prays that this Honorable Court set aside the indictment herein and dismiss said cause, and for such other and further relief as this Court may deem just and proper.

**FILED**

KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 10:00 AM  
Earris County, Texas  
By: [Signature]  
Deputy

Respectfully submitted,

Danise M. Crawford

Danise M. Crawford  
TBA# 05020150  
1112 Southmore Boulevard  
Houston, Texas 77004  
(713) 523-4050

[Signature]

Wayne T. Hill  
TBA # 09656300  
4615 Southwest Freeway, Suite 600  
Houston, Texas 77027-7106  
(713) 623-8312

ATTORNEYS FOR DEFENDANT  
GERALD ELDRIDGE

**DEFENDANT'S SECOND MOTION TO SET ASIDE THE  
INDICTMENT (UNCONSTITUTIONALITY OF STATUTE), Page 9**

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HARRIS COUNTY, TEXAS

**178TH JUDICIAL DISTRICT**

On this 7 day of MARCH, 1994, came on to be heard the Defendant's Second Motion to Set Aside the Indictment (Unconstitutionality of Statute), and after due consideration, the Court is of the opinion, and it is hereby ORDERED, that said Motion is:

DENIED, to which ruling Defendant timely  
excepts.

SIGNED this the 7 day of MARCH, 1994.

William Harris  
JUDGE PRESIDING

**RECORDER'S MEMORANDUM:**  
This instrument is of poor quality  
and not satisfactory for photographic  
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present at the time of filming.

**ORDER ON DEFENDANT'S SECOND MOTION TO SET ASIDE THE INDICTMENT (UNCONSTITUTIONALITY OF STATUTE), Page 1**

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issue submitted under Subsection (b) of this article, it shall answer the following issue:

Whether, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed.

- (f) The court shall charge the jury that in answering the issue submitted under Subsection (e) of this article, the jury:
- (1) shall answer the issue "yes" or "no";
  - (2) may not answer the issue "no" unless it agrees unanimously and may not answer the issue "yes" unless 10 or more jurors agree.

## II.

This statute is unconstitutional for several reasons. It impermissibly shifts the burden of proof on mitigation to the Defendant in violation of Article I §10 of the Texas Constitution. Because the statute demands the defense produce "sufficient" mitigation, the burden is shifted to the Defendant. Further because the statute is not specific about the exact burden of proof, it really provides no meaningful guidance to the jury who



WHEREFORE, PREMISES CONSIDERED, Defendant prays this court will hold this statute unconstitutional, and for such other relief as Defendant may be entitled.

Respectfully submitted,

**FILED**

KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 10:00 AM

Harris County, Texas

By [Signature]

Deputy

[Signature: Danise M. Crawford]

Danise M. Crawford

TBA# 05020150

1112 Southmore Boulevard

Houston, Texas 77004

(713) 523-4050

[Signature: Wayne T. Hill]

Wayne T. Hill

TBA # 09656300

4615 Southwest Freeway, Suite 600

Houston, Texas 77027-7106

(713) 623-8312

ATTORNEYS FOR DEFENDANT  
GERALD ELDRIDGE

**MOTION TO HOLD UNCONSTITUTIONAL V.A.C.C.P.  
ARTICLE 37.071 SEC. 2(e) AND (f) - BURDEN OF PROOF, Page 4**

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CAUSE NO. 9403201

13/RIC/983  
VME

STATE OF TEXAS

VS.

GERALD ELDRIDGE

§  
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§  
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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

178TH JUDICIAL DISTRICT

**ORDER ON DEFENDANT'S MOTION TO HOLD UNCONSTITUTIONAL  
V.A.C.C.P. ARTICLE 37.071 SEC. 2(e) AND (f) - BURDEN OF PROOF**

On this 7 day of MARCH, 1994, came on to be heard the Defendant's Motion to Hold Unconstitutional V.A.C.C.P. Article 37.071 Sec. 2(e) and (f) - Burden of Proof, and after due consideration, the Court is of the opinion, and it is hereby ORDERED, that said Motion is:

GRANTED

✓

DENIED, to which ruling Defendant timely excepts.

SIGNED this the 7 day of MARCH, 1994.

William Hammer  
JUDGE PRESIDING

RECORDER'S MEMORANDUM:  
This instrument is of poor quality  
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present at the time of filming.

**ORDER ON DEFENDANT'S MOTION TO HOLD  
UNCONSTITUTIONAL V.A.C.C.P. ARTICLE 37.071  
SEC. 2(e) AND (f) - BURDEN OF PROOF, Page 1**

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defendant, was irrelevant to the capital sentencing decision and created a constitutionally unacceptable risk that the jury would impose the death penalty in an arbitrary and capricious manner.

II.

In South Carolina v. Gathers, 109 S.Ct. 2207, 2211 (1989), the Court agreed that the trial court committed reversible error in placing before the jury personal characteristics of the victim which were irrelevant to the circumstances of the crime.

III.

It has long been recognized in Texas that it is error for the State to raise in the first instance the peaceable character of the deceased. Armstrong v. State, 718 S.W.2d 686, 695 (Tex.Cr.App. 1985).

IV.

Because it is irrelevant and therefore inadmissible, Defendant moves in limine that the District Attorney, his representatives and witnesses, refrain from direct or indirect reference to the following matters, at voir dire, in the opening or closing statements, in the evidence portion of the trial, and otherwise:

MOTION IN LIMINE - CHARACTER OF  
THE COMPLAINANT - VICTIM IMPACT, Page 2

allude to, cross-examine respecting, mention, or refer to any of the matters specified above, in the presence and hearing of the jury until a hearing has been held outside the presence of the jury to determine the relevance and admissibility of these matters.

Respectfully submitted,

**F I L E D**

KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 10:00 AM  
Harris County, Texas

By: [Signature]  
Deputy

[Signature: Danise M. Crawford]

Danise M. Crawford  
TBA# 05020150  
1112 Southmore Boulevard  
Houston, Texas 77004  
(713) 523-4050

[Signature: Wayne T. Hill]

Wayne T. Hill  
TBA # 09656300  
4615 Southwest Freeway, Suite 600  
Houston, Texas 77027-7106  
(713) 623-8312

ATTORNEYS FOR DEFENDANT  
GERALD ELDRIDGE

MOTION IN LIMINE - CHARACTER OF  
THE COMPLAINANT - VICTIM IMPACT, Page 4

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CAUSE NO. 9403201

STATE OF TEXAS

VS.

GERALD ELDRIDGE

§  
§  
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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

178TH JUDICIAL DISTRICT

**ORDER ON DEFENDANT'S  
MOTION IN LIMINE - CHARACTER OF THE  
COMPLAINANT - VICTIM IMPACT**

On this 7 day of MARCH, 1994, came on to be  
heard the Defendant's Motion in Limine - Charter of the Complainant -  
Victim Impact, and after due consideration, the Court is of the opinion, and  
it is hereby ORDERED, that said Motion is:

✓ GRANTED

       DENIED, to which ruling Defendant timely  
excepts.

SIGNED this the 7 day of MARCH, 1994.

William Hamner  
JUDGE PRESIDING

RECORDER'S MEMORANDUM:  
This instrument is of poor quality  
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present at the time of filming.

**ORDER ON DEFENDANT'S MOTION IN LIMINE  
- CHARACTER OF COMPLAINANT - VICTIM IMPACT, Page 1**

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II.

The Defendant would ask the following questions of each venireman:

1. Would the minimum length of time a defendant could serve in prison before he could be paroled be something you would want to know in answering the special issues?
2. On which special issue would this be important?
3. How would this 35-year minimum sentence be important to you in answering the special issues?
4. Would you be more likely, or less likely, generally, to view a defendant as a continuing threat to society if you knew he would not be paroled for a minimum of 35 years?

WHEREFORE, PREMISES CONSIDERED, Defendant requests that Defendant be allowed to ask these specific questions of each prospective juror, and any follow-up question which may be necessary based on the venireman's responses.

Respectfully submitted,

**FILED**

KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 10:00 AM  
Harris County, Texas

By [Signature]  
Deputy

[Signature]  
Danise M. Crawford  
TBA# 05020150  
1112 Southmore Boulevard  
Houston, Texas 77004  
(713) 523-4050

[Signature]  
Wayne T. Hill  
TBA # 09656300  
4615 Southwest Freeway, Suite 600  
Houston, Texas 77027-7106  
(713) 623-8312

**MOTION TO VOIR DIRE ON PAROLE  
LAW - 35 YEAR MINIMUM, Page 2**

ATTORNEYS FOR DEFENDANT  
GERALD ELDRIDGE

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CAUSE NO. 9403201

STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
GERALD ELDRIDGE	§	178TH JUDICIAL DISTRICT

**MOTION FOR EQUAL ACCESS TO BACKGROUND  
INFORMATION ON PROSPECTIVE JURORS**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, G. ELDRIDGE Defendant in the above-styled and numbered cause, and files this Motion for Equal Access to Background Information on Prospective Jurors, and for such cause would show the Court as follows:

**I.**

The Defendant is indigent and does not have access to private and confidential information gathered by law enforcement agencies regarding arrests and convictions of prospective jurors.

**MOTION FOR EQUAL ACCESS TO BACKGROUND  
INFORMATION ON PROSPECTIVE JURORS, Page 1**

WHEREFORE PREMISES CONSIDERED, the Defendant prays  
that the Court grant this Motion and provide the defense with equal access  
to background information on prospective jurors.

Respectfully submitted,

**FILED**

KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 10:00 AM  
Harris County, Texas

By: [Signature]  
Deputy

[Signature: Danise M. Crawford]

Danise M. Crawford  
TBA# 05020150  
1112 Southmore Boulevard  
Houston, Texas 77004  
(713) 523-4050

[Signature: Wayne T. Hill]

Wayne T. Hill  
TBA # 09656300  
4615 Southwest Freeway, Suite 600  
Houston, Texas 77027-7106  
(713) 623-8312

ATTORNEYS FOR DEFENDANT  
GERALD ELDRIDGE

MOTION FOR EQUAL ACCESS TO BACKGROUND  
INFORMATION ON PROSPECTIVE JURORS, Page 3

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CAUSE NO. 9403201

13/R14 986  
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STATE OF TEXAS

VS.

GERALD ELDRIDGE

§  
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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

178TH JUDICIAL DISTRICT

**ORDER ON DEFENDANT'S  
MOTION FOR EQUAL ACCESS TO BACKGROUND  
INFORMATION ON PROSPECTIVE JURORS**

On this the 7 day of MARCH, 1994, came  
on to be heard the Defendant's Motion for Equal Access to Background  
Information of Prospective Jurors, and after due consideration, Defendant's  
Motion is hereby:

✓ GRANTED

       DENIED, to which ruling Defendant timely  
excepts.

SIGNED this the 7 day of MARCH, 1994.

William Harwood  
JUDGE PRESIDING

RECORDER'S MEMORANDUM:  
This instrument is of poor quality  
and not satisfactory for photographic  
recording; and/or alterations were  
present at the time of filming.

**ORDER ON DEFENDANT'S MOTION FOR EQUAL ACCESS  
TO BACKGROUND INFORMATION OF PROSPECTIVE JURORS, Page 1**

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II.

Specifically, the Defendant would ask each and every juror the following questions:

1. To which special issues do you believe the victim impact testimony would be relevant?
2. How is it relevant to that particular issue?
3. Would you consider this impact testimony in your deliberations on guilt?
4. Would this impact testimony cause you to reduce the State's burden of proof at either guilt or punishment? Could you promise me it would not do so?

WHEREFORE, PREMISES CONSIDERED, Defendant requests the opportunity to voir dire each and every venireman on the above-listed questions. The questions are necessary to render effective assistance of counsel and to allow the Defendant to intelligently exercise his peremptory challenges.

**FILED**

KATHERINE TYRA  
District Clerk

MAR - 7 1994

Time: 10:00 AM

Harris County, Texas

By: [Signature]  
Deputy

Danise M. Crawford

Danise M. Crawford  
TBA# 05020150  
1112 Southmore Boulevard  
Houston, Texas 77004  
(713) 523-4050

Wayne T. Hill

Wayne T. Hill  
TBA # 09656300  
4615 Southwest Freeway, Suite 600  
Houston, Texas 77027-7106  
(713) 623-8312

ATTORNEYS FOR DEFENDANT  
GERALD ELDRIDGE

CAUSE NO. 9403201

13/RK/987  
[Signature]

STATE OF TEXAS

VS.

GERALD ELDRIDGE

§  
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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

178TH JUDICIAL DISTRICT

**ORDER ON DEFENDANT'S MOTION TO VOIR**  
**DIRE VENIREMAN ON VICTIM IMPACT TESTIMONY**

On this 7 day of MARCH, 1994, came on to be heard the Defendant's Motion to Voir Dire Venireman on Victim Impact Testimony, and after due consideration, the Court is of the opinion, and it is hereby ORDERED, that said Motion is:

\_\_\_\_\_  
GRANTED

✓  
DENIED, to which ruling Defendant timely excepts.

SIGNED this the 4 day of MARCH, 1994.

William Hammer  
JUDGE PRESIDING

RECORDER'S MEMORANDUM:  
This instrument is of poor quality and not satisfactory for photographic recordation; and/or alterations were present at the time of filming.

**ORDER ON DEFENDANT'S MOTION TO VOIR**  
**DIRE VENIREMAN ON VICTIM IMPACT TESTIMONY**, Page 1

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FILED 40211

WRIT TO SERVE COPY OF VENIREMEN FOR THE WEEK BEGINNING  
MARCH 14, 1994

FILED: MARCH 9, 1994



NO. 9403201

1622993

VME

THE STATE OF TEXAS  
COUNTY OF HARRIS

IN THE 178 DISTRICT COURT  
February TERM, A.D. 1994

THE STATE OF TEXAS

To the Sheriff of Harris County, Greetings:

YOU ARE HEREBY COMMANDED to deliver forthwith to \_\_\_\_\_  
Gerald Cornelius Eldridge in person, the  
accompanying Certified Copy of the list of persons to serve as Veniremen, for the  
week beginning March 14, A.D. 1994 and including persons  
summoned as Veniremen for March 14, A.D. 1994 through  
March 18, A.D. 1994, and being set for trial on the docket  
of said Court in Cause No. \_\_\_\_\_ wherein THE STATE OF TEXAS is  
Plaintiff and Gerald Cornelius Eldridge  
is defendant.

Herein Fail Not, but of this Writ make due return, showing how you have  
executed the same.

WITNESS my hand and seal of office, at Houston Texas, this 9 day of  
March, A.D. 1994.

KATHERINE TYRA, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

By: [Signature] Deputy

SHERIFF'S RETURN

Came to hand 9th day of March, 1994, and executed 9th day of  
March, 1994. By delivering to \_\_\_\_\_  
Gerald Cornelius Eldridge the within named  
defendant, a certified copy of Veniremen, accompanying this writ.

Johnny Klavenhagen, Sheriff  
Harris County, Texas

By: [Signature] #1815, Deputy

**FILED**  
KATHERINE TYRA  
District Clerk

MAR - 9 1994

Time: 10:30 AM

By: [Signature]

Deputy

000182

CRM-88 02-24-92

WRIT TO SERVE COPY OF VENIREMEN FOR THE WEEK NBEGINNING  
MARCH 28, 1994

FILED: MARCH 23, 1994

JA07 6F4

SPN 00651025

NO. 9403201

13/RU/991 ✓m

THE STATE OF TEXAS  
COUNTY OF HARRIS

IN THE 178TH DISTRICT COURT  
TERM, A.D. 19

THE STATE OF TEXAS

To the Sheriff of Harris County, Greetings:

YOU ARE HEREBY COMMANDED to deliver forthwith to \_\_\_\_\_  
\_\_\_\_\_ GERALD CORNELIUS ELDRIDGE \_\_\_\_\_ in person, the  
accompanying Certified Copy of the list of persons to serve as Veniremen, for the  
week beginning MARCH 28, \_\_\_\_\_, A.D. 19 94 and including persons  
summoned as Veniremen for MARCH 28, \_\_\_\_\_, A.D. 19 94 through  
MARCH 31, \_\_\_\_\_, A.D. 19 94, and being set for trial on the docket  
of said Court in Cause No. 9403201 wherein THE STATE OF TEXAS is  
Plaintiff and GERALD CORNELIUS ELDRIDGE  
is defendant.

Herein Fail Not, but of this Writ make due return, showing how you have  
executed the same.

WITNESS my hand and seal of office, at Houston Texas, this 23RD day of

MARCH, A.D. 19 94.

KATHERINE TYRA, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

By: \_\_\_\_\_ Deputy

SEAL  
MAR 23 AM 10:32  
HARRIS COUNTY  
CENTRAL RECORDS

SHERIFF'S RETURN

Came to hand 9 day of MARCH, 19 94, and executed 23 day of  
MARCH, 19 94. By delivering to ELDRIDGE, GERALD  
CORNELIUS

defendant, a certified copy of Veniremen, accompanying this writ.

Johnny Klevenhagen, Sheriff  
Harris County, Texas

By: P.A. Busch, Deputy

FILED the within named  
DISTRICT CLERK  
COUNTY KATHERINE TYRA  
DISTRICT CLERK  
HARRIS COUNTY, TEXAS  
1994 MAR 23 PM 2:36  
1994 MAR 23 PM 2:36

1 CAPITAL MURDER JURY STRIKE LIST

2 FILED: APRIL 11, 1994

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DEFENDANT: \_\_\_\_\_

CHARGE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE CHALLENGES:

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DEFENSE CHALLENGES:

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CHALLENGE FOR CAUSE

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|--|--|
| 1. <u>Arrementa Justice</u> MAR. 8 1994 (Agreed)       | 9. <u>Barry Dean Wilson</u> MAR. 9 1994 (Agreed)         |
| 2. <u>Laura Budamar Craig</u> MAR. 9 1994 (Agreed)     | 10. <u>Edward Ray Simpton</u> MAR. 9 1994 (Agreed)       |
| 3. <u>Henry J. Stouse II</u> MAR. 9 1994 (Agreed)      | 11. <u>Rita K Mehta</u> MAR. 9 1994 (Agreed)             |
| 4. <u>Marsha Elaine Clayborne</u> MAR. 9 1994 (Agreed) | 12. <u>John Joseph Sisker</u> MAR. 10 1994 (Agreed)      |
| 5. <u>Dorothy Hawkins</u> MAR. 9 1994 (Agreed)         | 13. <u>Francis Lawrence Dannon</u> MAR. 10 1994 (Agreed) |
| 6. <u>Stanley Eugene Herr</u> MAR. 9 1994 (Agreed)     | 14. <u>Martha Hutton Lasech</u> MAR. 10 1994 (Agreed)    |
| 7. <u>Angela Felice Mitchell</u> MAR. 9 1994 (Agreed)  | 15. <u>Robert F. Burns</u> MAR. 10 1994 (Agreed)         |
| 8. <u>Patrick M. Kenady</u> MAR. 9 1994 (Agreed)       | 16. <u>Marjorie Berdes Smith</u> MAR. 10 1994 (Agreed)   |

DEFENDANT: \_\_\_\_\_ CHARGE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE CHALLENGES:

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CHALLENGE FOR CAUSE

1. Bruce K. Scott MAR 15 1994 A
2. Jerry Novas MAR 15 1994 A
3. Jerry Olson Kuf MAR 15 1994 A
4. Merinda Gonzales MAR 15 1994 A
5. Lisa Jean MAR 15 1994 A
6. John McQueen MAR 15 1994 A
7. Levellon Ragan MAR 15 1994 A
8. Kenneth Blanche MAR 15 1994 A

9. Jerry Kennedy MAR 15 1994 A
10. Bernon Simpson MAR 15 1994 A
11. Gary VanPelt MAR 15 1994 A
12. Bonnie Lou Parnet MAR 15 1994 A
13. Margene Hill MAR 15 1994 A
14. James Harty MAR 15 1994 A
15. John Maher MAR 15 1994 A
16. Samuel Ross MAR 15 1994 A



DEFENDANT: \_\_\_\_\_ CHARGE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE CHALLENGES:

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DEFENSE CHALLENGES:

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THE JURY

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CHALLENGE FOR CAUSE

1. Lewis H. Augspurger MAR. 28 1994 A
2. Kathleen Lankin MAR. 29 1994 A
3. Albert Merens MAR. 29 1994 A
4. Jim W. Lemmert MAR. 29 1994 A
5. Carla Kittell MAR. 29 1994 A
6. Leo Murren MAR. 29 1994 A
7. Shari H. Baret MAR. 29 1994 C
8. Nana K. Cloutier MAR. 29 1994 A

9. Marlene J. Jensen MAR. 29 1994 A
10. Doris E. Finley MAR. 29 1994 A
11. Danny Stephenson MAR. 29 1994 A
12. Terelyn Hill MAR. 29 1994 A
13. Gregg Helmswood MAR. 29 1994 A
14. Rodrick Rickett MAR. 29 1994 A
15. Lewis Augspurger MAR. 29 1994 A
16. George Daum MAR. 29 1994 A

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DEFENDANT: \_\_\_\_\_

CHARGE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE CHALLENGES:

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DEFENSE CHALLENGES:

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THE JURY

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CHALLENGE FOR CAUSE

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| 1. <u>Dario W. McBeal</u> MAR 30 1994 A    | 9. <u>Joanne C. Jackson</u> MAR 31 1994 A     |
| 2. <u>Patricia Aldao</u> MAR 30 1994 A     | 10. <u>Angela Jackson</u> APR - 4 1994 A      |
| 3. <u>Mary C. Long</u> MAR 30 1994 A       | 11. <u>Janet P. Blackburn</u> APR - 4 1994 A  |
| 4. <u>Alwinder Singal</u> MAR 31 1994 A    | 12. <u>James L. Hinze</u> APR - 4 1994 A      |
| 5. <u>Kathryn I. Roszell</u> MAR 31 1994 A | 13. <u>Donald W. Griffith</u> APR - 4 1994 C  |
| 6. <u>Ruben Lara</u> MAR 31 1994 A         | 14. <u>Kathleen Livingston</u> APR - 4 1994 A |
| 7. <u>Guadalupe Aguilar</u> MAR 31 1994 A  | 15. <u>Frank J. Clement</u> APR - 4 1994 A    |
| 8. <u>Dorothy Hester</u> MAR 31 1994 A     | 16. <u>Susan S. Mahoney</u> APR - 5 1994 A    |

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DEFENDANT: \_\_\_\_\_

CHARGE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE CHALLENGES:

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DEFENSE CHALLENGES:

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CHALLENGE FOR CAUSE

1. Tonia Dennis APR. - 6 1994 A
2. Michael Heath APR. - 6 1994 A
3. Dwight D. Bend APR. - 6 1994 A
4. Pamela Mosley APR. - 6 1994 A
5. Jackie Collier APR. - 6 1994 A
6. Neil Meadows APR. - 6 1994 A
7. Amada Perez APR. - 6 1994 A
8. Candace Lopez APR. - 6 1994 A

9. Gregory McCain APR. - 6 1994 A
10. April Chandler APR. - 7 1994 A
11. Rupert Boddie APR. - 7 1994 A
12. Vilona B. Wm APR. - 7 1994 A
13. Garry Pierce APR. - 7 1994 A
14. Teresa Mack APR. - 7 1994 A
15. Sheila Hassch APR. - 7 1994 A
16. Coroliss D. Spriggins APR. - 7 1994 A

DEFENDANT: \_\_\_\_\_

CHARGE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE CHALLENGES:

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DEFENSE CHALLENGES:

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THE JURY

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CHALLENGE FOR CAUSE

1. Gary Long APR - 8 1994 A
2. James Gooden APR - 8 1994 A
3. Carolyn Baker APR - 8 1994 A
4. Walter H. Wells APR - 8 1994 A
5. James L. Vallery APR - 8 1994 A
6. Helen Cranmer APR - 8 1994 A
7. Raymond Trevino APR - 8 1994 C
8. Betty Moore APR - 8 1994

9. Debra Walichowski APR - 8 1994 C
10. Thomas Shallue APR - 8 1994 A
11. Steven C. Waltnay APR - 8 1994 A
12. David Olson APR - 8 1994 A
13. Esteban Plata APR - 8 1994 A
14. Jill Trapp APR - 8 1994 A
15. Mary Solis APR - 8 1994 A
16. Junelle Nowacki APR - 8 1994 A

CAUSE NO. 9403201  
TRANSCRIPT REQUEST  
PAGE NO. 2

WHEREFORE, PREMISES CONSIDERED, Defendant requests that said record be provided without delay so that defendant may properly protect his rights and to allow below signed attorney to render effective assistance.

**FILED**

KATHERINE TYRA  
District Clerk

APR 13 1994

Time: 11:50 AM  
Harris County, Texas  
By [Signature]  
Deputy

Respectfully submitted,

[Signature: Denise M. Crawford]  
DENISE M. CRAWFORD  
BAR NO. 05020150  
1112 Southmore Boulevard  
Houston, Texas 77004  
(713) 523-4050  
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I, DENISE M. CRAWFORD, do hereby certify that a true and correct copy has been served upon the Assistant District Attorney, at 201 Fannin, Houston, Texas, by U.S. mail or hand delivery in open court on this \_\_\_\_ day of \_\_\_\_\_, 1994

[Signature: Denise M. Crawford]  
DENISE M. CRAWFORD

O R D E R

On the 13 day of April, 1994, came on to be heard the Defendant's Motion and Request for Transcript of testimony from the Contested Competency Hearing. The Court having heard the evidence and argument of counsel is the opinion that said Motion is hereby

GRANTED / DENIED.

[Signature: William Hanner]  
JUDGE PRESIDING

RECORDER'S MEMORANDUM:  
This instrument is of poor quality  
and not satisfactory for photographic  
recording; and/or alterations were  
present at the time of filing.

000200

V1198 P0843

III.

The State has wholly failed to offer any evidence establishing that the Defendant caused the death of Chirrisa Bogany. The failure of the State to prove the corpus delicti in this matter entitles the Defendant to a Motion for Instructed Verdict of Not Guilty.

IV.

The State failed to establish that any conduct alleged to have engaged in by the Defendant was done so "intentionally" with the requisite showing that the Defendant had the specific intent that the death of the Chirrisa Bogany occur.

**PARAGRAPH II OF THE INDICTMENT**

V.

The Defendant would show that the State has wholly failed to establish that the Defendant caused the death of Chirrisa Bogany as alleged in the indictment. The State's failure to establish the corpus delicti of this alleged crime entitles the Defendant to an instructed verdict of not guilty as to paragraph two of the indictment.

VI.

The State failed to establish that any conduct alleged to have engaged in by the Defendant was done so "intentionally" with the requisite showing that the Defendant had the specific intent that the death of the Chirrisa Bogany occur.

VII.

The State failed to establish that any conduct alleged to have engaged in by the Defendant was done so "intentionally" with the requisite showing that the Defendant had the specific intent that the death of the Cynthia Bogany occur.

XII.

The State has failed to offer any evidence that the allegations contained in paragraph three of the indictment were committed by the Defendant pursuant to the same scheme and course of conduct. This failure entitles this Defendant to a Motion for Instructed Verdict of Not Guilty in reference to paragraph three of the indictment.

XIII.

The State has failed to show or establish by competent evidence that the Defendant intentionally caused the death of Chirrisa Bogany in failing to establish that the Defendant had the specific intent to cause the death of Chirrisa Bogany when he allegedly shot Chirrisa Bogany.

WHEREFORE, PREMISES CONSIDERED, Defendant prays the Court grant this motion and instruct the jury to enter a finding of not guilty as to each of the three paragraphs contained in the State's indictment returned against the Defendant herein.

Respectfully submitted,

**FILED**  
KATHERINE TYRA  
District Clerk

APR 14 1994

Time: 11:05 AM  
Harris County, Texas

By: [Signature]  
Deputy

Danise M. Crawford  
Danise M. Crawford  
TBA# 05020150  
1112 Southmore Boulevard  
Houston, Texas 77004  
(713) 523-4050

Wayne T. Hill  
Wayne T. Hill  
TBA # 09656300  
4615 Southwest Freeway, Suite 600  
Houston, Texas 77027-7106  
(713) 623-8312

ATTORNEYS FOR DEFENDANT  
GERALD ELDRIDGE

13/RA/1981  
VME

CAUSE NO. 9403201

STATE OF TEXAS                   §           IN THE DISTRICT COURT OF  
   §  
VS.                                   §           HARRIS COUNTY, TEXAS  
   §  
GERALD ELDRIDGE               §           178TH JUDICIAL DISTRICT

ORDER

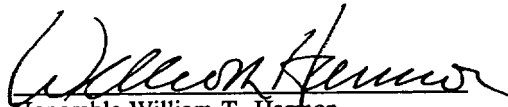
On this 14 day of APRIL, 1994, came to be heard Defendant's Motion for Instructed Verdict of Not Guilty in this cause. It is the Order of this Court that the Defendant's Motion for Instructed Verdict of Not Guilty be granted or denied as to the following paragraphs contained in the indictment:

Defendant's Motion for Instructed Verdict of Not Guilty as to Paragraph I of the Indictment is hereby (GRANTED) (DENIED).

Defendant's Motion for Instructed Verdict of Not Guilty as to Paragraph II of the Indictment is hereby (GRANTED) (DENIED).

Defendant's Motion for Instructed Verdict of Not Guilty as to Paragraph III of the Indictment is hereby (GRANTED) (DENIED).

SIGNED this 14 day of APRIL, 1994.

  
Honorable William T. Harmon  
Judge Presiding  
178th District Court  
Harris County, Texas

APR 20 3 1994



1 DEFENDANT'S REQUESTED JURY INSTRUCTION

2 FILED: APRIL 18, 1994

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